

DIST/OFFICE	DOCKET	YR.	NUMBER	FILING DATE	MO.	DAY	YEAR	J	N/S	O	R	H	23	\$	55	OTHER	JUDGE	NUMBER	JURY	DEM.	YR.	NUMBER
1085/4	76	0039	2	5	76	4	360	2	12									8509	D	76	0039-B	

**PLAINTIFFS**  
LEO GASTON SIMONDS

*ad 6-1-76*  
**DEFENDANTS**  
LOUIS CUMMINGS, JOHN DOE,  
and SAFEWAY STORES, INC.

**CAUSE**  
28 U.S.C. Sec. 1441 (Removal) - plaintiff is a resident of Creek County, Oklahoma, and sues Safeway Stores, Inc., a Maryland Corporation, with its principal place of business in Oakland, California, for personal injuries and alleges negligence in furnishing plaintiff with a defective loading device; and has fraudulently joined the other defendants.

**ATTORNEYS**  
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*3-1-22-76*

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**FILING FEES PAID**

DATE	RECEIPT NUMBER	C.D. NUMBER

**STATISTICAL CARDS**

CARD	DATE MAILED
JS-5	3-1-76
JS-6	5-1-77

DATE	NR.	PROCEEDINGS
<u>1976</u>		
2-5	1.	Petition for Removal, filed, from Dist. Ct. of Creek Co., Okla. ph
2-5	2.	Bond on removal, filed. ph
2-5	3.	Notice of Removal, filed. ph
2-5	4.	Deft., Safeway Stores, Inc., <u>DEMAND FOR JURY TRIAL</u> , filed. ph
2-5	5.	Proof of service, filed. ph
2-10	6.	Ack. of Ct. Clerk for Dist. Ct. of Creek County, OK, filed. ph
2-10	7.	Deft. Safeway Stores, Inc.'s Statement of Record in State Court, filed including answer of defts. Safeway & Cummings. ph
2-17	8.	Plaintiff's Motion to Remand, filed.k
2-17	9.	Brief in support of Pltf's mot. to remand, filed.k
2-17	MO	It is ordered by the Court that Defts. are granted 10 days to respond to Pltf's Mot. to remand. (AEB-J)k cps mld
2-26	10.	Appl. of Deft., Safeway Stores, Inc., for ext. of time to respond to Pltf.'s Mot. to Remand & Brief in support thereof, fld. v (o)
3-1-76	11	Ordered Safeway Stores, is granted until March 8, 1976, within which time to respond to the pltf's Mot. to remand, filed.(AEB-J)t cps. mld.
3-8	12.	Defts' brief in response to Pltf's motion to remand, filed. ph
3-8	MO	Case referred to Mag. Morris L. Bradford for F&R re pltf's mot. to remand. (AEB-J)k
3-12	13	Reply brief in support of mot. to remand, filed. g
3-19	14.	Mot. to Dismiss, fld. by deft. Lewis Cummings. v
3-19	15.	Brief in support, fld. v
3-22	MO:	Ordered by the Court that Pltf. is granted 10 days from this date to respond to the Mot. to Dismiss by Deft. Lewis Cummings. (AEB-J)v -ltrs mld.
3-30	MO	Plaintiff granted an addl. 7 days to file brief as requested in letter of 3-29-76. (AEB-J)g mld.
4-8	16.	Answer Brief in Opposition to Mtn. to Dismiss, filed.jj
4-16	MO	Case set for hrg. on mots. before Mag. on 5-12-76 at 2:00 p.m. (MLB-Mag)k ntc by KT
5-12	MO	Case called for hrg. before Mag. on pending mots. Parties present. Mag. finds that pltf's mot. to remand should be denied and that deft. Cummings' mot. to dismiss should be sustained. Deft. counsel to prepare F&R and proposed order w/in 5 days. (MLB-Mag)k
5-19	17.	Magistrate's Findings and Recommendations, filed. (MLB-Mag)k cps mld
6-1	18.	Order, filed, that motion of Pltf. to remand is overruled; and further ordered that motion of Deft. Louis Cummings to dismiss is sustained. (AEB-J)s cps. mld. Entered as to deft. Cummings.k
6-11	19.	Deft. Safeway's interrogatories to pltf, filed.k
6-22	MO	Parties are directed to hold PT conf. on or before 8-5-76 & file PT Order on or before 8-11-76. (AEB-J)s cps by cert ml
7-6	20	Mot. of pltf. to amend complaint, filed. g
7-6	MO	Deft. directed to respond to pltf's motion to amend complaint within 10 days. (AEB-J)g
7-9	21.	Pltf's answers to deft's interrogatories, filed.k

continued

## CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. <u>76-C-39</u> PAGE <u>3</u> OF <u>2</u> <del>X</del> <u>XX</u> sheets
Leo Gaston Simonds		John Doe, et al	
DATE	NR.	PROCEEDINGS	
1976			
7-9	22.	Pltf's appl. to strike pre-trial setting, filed.k 0 to J	
7-9	23.	Order, filed, striking case from pre-trial setting. To be reset on next docket. (AEB-J)k cps mld	
8-3	MO	The Court has for consideration the mot. to amend compl. filed by the pltf., and the defts. having been advised that a minute order was entered on 7-6-76 directing them to respond to said mot. to amend, and said file reflecting that no response has been filed, per the order of the Court, IT IS, THEREFORE, ORDERED that pltf's mot. to amend be and the same is hereby sustained and the Clerk is directed to file the amended compl. attached to pltf's mot. to amend. (AEB-J)k	
8-3	24.	Plaintiff's first amended complaint, filed.k	
9-7	25.	Pltf's interrogatories to deft. Safeway Stores, Inc., filed.s	
9-8	26.	Deft. Safeway Stores, Inc.'s answer w/leave granted to file out of time, filed.s (AEB-J)	
10-18	MO:	Parties are directed to hold PT conf. on or before 11-29-76 & file PT Order on or before 12-6-76. (AEB-J)k cps by cert ml	
1977			
1-18	MO	Case set for disposition on 2-1-77 at 10:30 a.m. for failure of parties to file pre-trial order. (AEB-J)s ntc. by cert. ml.	
1-28	27	Pre-trial Order, filed.(AEB-J)b	
2-25	MO	Case set for jury trial on 3-21-77 at 10:00 a.m. (AEB-J)k ntc by cert ml w/ affidavit	
3-3	28	Deft., Safeway Stores, Inc., appl. for continuance. fld. 0 to J. ho	
3-3	29	Order, fld. granting deft. Safeway Stores, Inc. a continuance to the next available trial docket. (AEB-J) cps mld. ho	
3-7	MO:	Case set for Jury trial on 4-11-77, at 9:30 A.M.(AEB-J)b nts cert ml w/affid.	
4-4	30	Deft. memorandum brief. fld. ho	
4-4	31	Trial brief of Pltf. fld. ho	
4-4	32	Pltf. requested instructions. fld. ho	
4-4	33	Pltf. requested Voir Dire. fld. ho	
4-11		Case called for jury trial. Deft. co. present & requests continuance until 5-13-77, at which time settlement papers should be presented to Court.(AEB-J)b	
4-11	MO:	Jury trial stricken from docket of 5-13-77, pending settlement.(AEB-J)b	
4-20	34	Parties appl for order of dismissal w/prejudice. fld. 0 to J. ho	
4-25	MO:	The Court has for consideration the joint appl. of pltf. & deft. to dismiss w/ prejudice, and, being fully advised in the premises, finds that the same should be sustained and the cause of action and compl. dismissed w/ prejudice. IT IS, THEREFORE, ORDERED that the appl. of pltf. and deft. to dismiss w/ prejudice be and the same is hereby dismissed w/ prejudice. Formal order to be filed at a later date. (AEB-J)k cps mld	
5-2	35.	Order of dismissal with prejudice, filed & entered. (AEB-J)k cps mld	

PLAINTIFF	DEFENDANT	DOCKET NO. _____
		PAGE ____ OF ____ PAGES

PAGE \_\_\_\_\_ OF \_\_\_\_\_ PAGES

DATE	NR.	PROCEEDINGS